



MS PETITION

Docket No.: 1155-0234P

(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: Yasuhiko SUZUKI et al.

Application No.: 10/009,738

Confirmation No.: 001181

Filed: December 17, 2001

Art Unit: 1713

For: PROCESS FOR POLYMERIZING OLEFINS

Examiner: R. A. Lee

PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW THE HOLDING OF ABANDONMENT

MS Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

In response to the Notice of Abandonment dated August 18, 2005, applicant hereby respectfully petitions under the provisions of 37 C.F.R. § 1.181 and MPEP § 711.03(c) for a decision to withdraw the holding of abandonment due to failure to receive a Notice Regarding Drawings.

The Notice of Abandonment dated August 18, 2005 indicates that this application was abandoned in view of the applicant's failure to respond to a Notice Regarding Drawings mailed on April 19, 2005.

However, this Notice Regarding Drawings was never received by the offices of the undersigned, and a search of the file jacket for the present application and the firm docketing records reveals that the Notice Regarding Drawings of April 19, 2005 was never received. The

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offices of the undersigned did not become aware of the Notice Regarding Drawings until advised of the holding of abandonment.

1. EVIDENCE

The fact that the Notice Regarding Drawings of April 19, 2005 was never received in the offices of Birch, Stewart, Kolasch & Birch, LLP is evidenced by Exhibits I, II, and III attached hereto.

Exhibit I is a copy of the front page of the file jacket of Appl. No. 10/009,738 (which corresponds to Attorney Docket No. 1155-0234P). It is the policy in our office to record all information regarding Office Actions and responses on the front page of the file jacket. As the Petitions Examiner will note, there is no entry for the Notice Regarding Drawings dated April 19, 2005 on the front page of the file jacket of the above-referenced application.

Exhibit II is a copy of the computer-generated daily docket sheet(s) of Birch, Stewart, Kolasch & Birch, LLP for the date of June 19, 2005 (the due date for said Notice Regarding Drawings), containing entries made by our Docketing Department of due dates in response to PTO actions. It is the policy of our offices to docket all due dates for Office Actions received from the USPTO into our computer docketing system.

Although Application Numbers, Titles, Client Names, and Inventor Names have been redacted from this Exhibit to avoid public disclosure of these matters once the present application is patented, it is still clear that there is no entry for the due date of June 19, 2005 which corresponds to the current application, Attorney Docket No. 1155-0234P.

The undersigned certifies that he has reviewed the computer-generated daily docket sheets for the due date of June 19, 2005 and did not locate an entry that corresponds to Appl. No. 10/009,738 to inventors Yasuhiko SUZUKI, Tomoaki MATSUGI, Yukihiro TAKAGI, Yasunori YOSHIDA, Junji SAITO, Shigekazu MATSUI, Yoshihisa INOUE and Terunori FUJITA.

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Exhibit III is a copy of the PAIR "transaction history" which indicates that a Notice Regarding Drawings was apparently <u>not even mailed</u> on April 19, 2005 as asserted in the Notice of Abandonment – hence, the reason for non-receipt of same by applicants.

2. TERMINAL DISCLAIMER

The present application was filed on or after May 29, 2000. Accordingly, no Terminal Disclaimer is necessary. It is noted that the present Petition is being timely filed within two (2) months of the mailing date of the Notice of Abandonment. Accordingly, no reduction in patent term adjustment should be made, in accordance with the provisions of 37 C.F.R. § 1.704(c)(4).

In view of the above-described facts, it is respectfully submitted that the abandonment of the present application was unavoidable and due solely to problems with the mailing of an Office Action by the PTO (and accordingly should be withdrawn), since the Notice Regarding Drawings dated April 19, 2005 was (1) apparently never mailed by the PTO and (2) accordingly never received in the offices of Birch, Stewart, Kolasch & Birch, LLP.

The present Petition is timely filed for this purpose.

3. RESPONSE TO NOTICE REGARDING DRAWINGS

While applicants never received by mail a copy of the Notice Regarding Drawings of April 19, 2005, a copy was obtained subsequent to receipt of the Notice of Abandonment upon accessing the April 20, 2005 entry in the PAIR "Image File Wrapper" for the above application entitled "Workflow-Query Request-Finish". Again, there is no evidence in that entry that the Notice Regarding Drawings was ever mailed by the PTO.

Accordingly, in response to the Notice Regarding Drawings, applicants provide herewith a copy of the drawing (Figure 1) having notations in the English language as required by the Notice Regarding Drawings, together with applicants' response to the Notice Regarding

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Drawings. Entry of the response as well as the new drawing is believed proper and respectfully

requested.

4. **NO FEE REQUIRED**

Since the above-mentioned Notice Regarding Drawings was never received in the offices

of the undersigned nor apparently officially mailed by the Patent Office, it is believed that no

petition fee is necessary in connection with this Petition.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future

replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any

additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: October 18, 2005

Respectfully submitted,

Al Raymond C. Stewart

Registration No.: 21,066

BIRCH, STEWART, KOLASCH & BIRCH, LLP

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(703) 205-8000

Attorney for Applicant

Attachments

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18-Jun-2005 Reminder	IDS Reminder Information Disclosure Stmnt	3449-0470 / 1 United States of America Title:	Pending		18-Apr-2005	ле
19-Jun-2005 Due Date	IDS LOW	0465-1258 / 1 Pending United States of America Title	Pending		29-Dec-2004	JTE JTE
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20-Jun-2005 Final	ISSUE FEE	0941-0410 / United States of America	Published		14-Feb-2002
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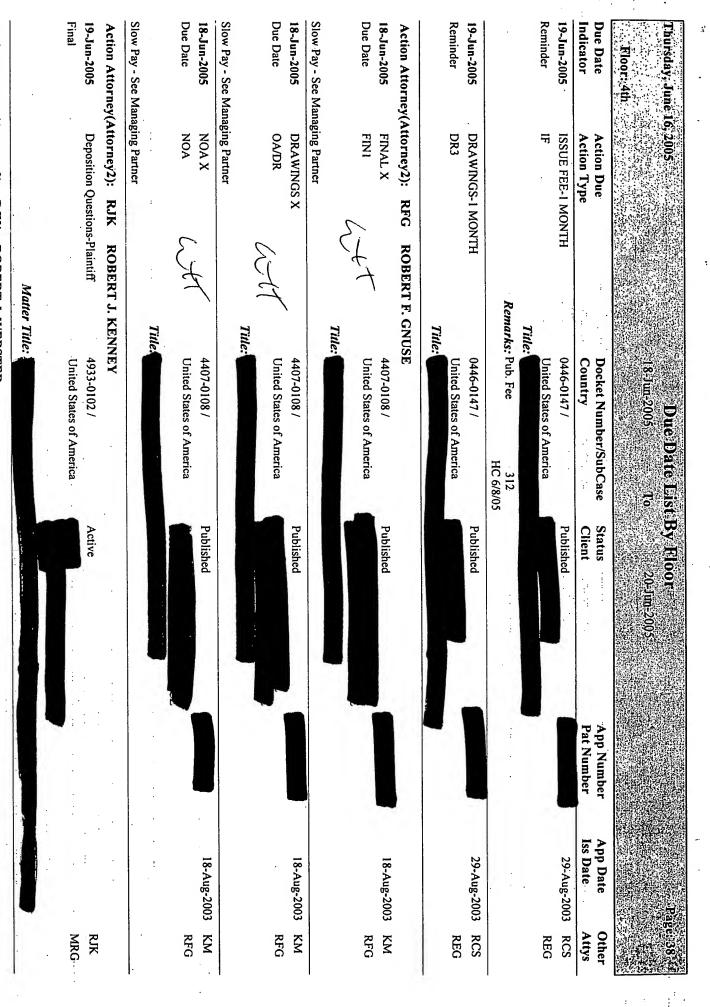
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Sea	rch results fo	r application	number: 10/009,738
Application Number:	10/009,736	Customer Number:	2292
Filing or 371(c) Date:	12-17-2001	Status:	Abandonment for Failure to Control Drawings/Oath/NonPub Reque
Application Type:	Utility	Status Date:	08-18-2005
Examiner Name:	LEE, RIP A	Location:	ELECTRONIC
Group Art Unit:	1713	Location Date:	-
Confirmation Number:	1181	Earliest Publication No:	US 2002-0151661 A1
Attorney Docket Number:	1155-0234P	Earliest Publication Date:	10-17-2002
Class/ Sub- Class:	526/161	Patent Number:	-
First Named Inventor:	ISHTHE LANG	Issue Date of Patent:	-
Title Of Invention:	PROCESS FOR 1	THE POLYMERIZ	ATION OLEFINS

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Mail Formal Drawings Required

11-22-2004	Issue Revision Completed
11-22-2004	Formal Drawings Required
11-22-2004	Notice of Allowance Data Verification Completed
11-22-2004	Case Docketed to Examiner in GAU
09-28-2004	Date Forwarded to Examiner
09-15-2004	Response after Non-Final Action
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01-30-2004	Workflow - Request for RCE - Begin
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01-12-2004	Advisory Action (PTOL-303)
12-12-2003	IFW Amended case processing Complete
12-12-2003	Date Forwarded to Examiner
12-01-2003	Amendment after Final Rejection
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03-18-2002	Information Disclosure Statement (IDS) Filed
12-17-2001	Preliminary Amendment
12-17-2001	Information Disclosure Statement (IDS) Filed
05-06-2002	Case Docketed to Examiner in GAU
04-24-2002	IFW Scan & PACR Auto Security Review
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